

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 98-80695

Hon. Gerald E. Rosen

FAWZI MUSTAPHA ASSI,

Defendant.

**ORDER REGARDING DEFENDANT'S MOTION
TO DECLARE 18 U.S.C. § 2339B UNCONSTITUTIONAL**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on January 22, 2009

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

In a motion submitted on his own behalf on December 7, 2008, Defendant seeks once again to challenge the constitutionality of the statute he has been charged with (and now convicted of) violating, 18 U.S.C. § 2339B. Apart from this written submission, Defendant orally raised this and other legal challenges at his December 12, 2008 sentencing hearing.¹ As explained at that hearing, the Court has thoroughly considered

¹The Court notes that Defendant's present motion appears on the docket as having been filed on December 29, 2008, after the December 12 sentencing hearing. However, the Court received a copy of this submission prior to the sentencing hearing, and addressed this matter at the hearing. Thus, the Court need not confront the question whether it retains the jurisdiction to resolve Defendant's motion, in light of Defendant's prompt filing of a notice of appeal within a few days after the sentencing hearing (and before the ostensible "filing" of the present motion). Rather, despite the delayed appearance of the motion on the docket, it was presented for the

and addressed Defendant's various challenges to § 2339B throughout the course of this case, and finds no basis to revisit its rulings on these matters. Accordingly, for the reasons stated at the December 12 hearing,

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant's motion to declare 18 U.S.C. § 2339B unconstitutional (docket #157) is DENIED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: January 22, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 22, 2009, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager

Court's consideration prior to the entry of final judgment and Defendant's appeal.